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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------------|------------------|
| 09/845,416 | 04/30/2001 | Xiao Xiao | DE1253 | 4144 |
| 7590 03/04/2004 | | | | |
| David A. Einhorn, Esq. Anderson Kill & Olick, P.C. 1251 Avenue of the Americas New York, NY 10020 | | | EXAMINER WHITEMAN, BRIAN A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1635 | |

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/845,416

Applicant(s)

XIAO, XIAO

Examiner

Brian Whiteman

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17, 24-28 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Ex Parte Quayle

This application is in condition for allowance except for the following formal matters:

Applicant's traversal and the amendment to claims 1, 2, and 3 in paper filed on 1/20/04 is acknowledged and considered.

Claim Objections

The status of claims 4-13 and 24-28 is improper and the status of the claims should be listed as (previously presented).

In the response to this instant office action, Applicants are reminded to follow revised 37 CFR 1.121. See 68 Fed. Reg. 38611 (June 30, 2003) or website <http://www.uspto.gov/web/patents/ifw/>.

Drawings

The drawings were received on 1/20/04. These drawings are not acceptable because the drawings are different than the drawings filed on 10/11/01.

The new drawings are not acceptable for the following reasons:

Original Figure 3 is now missing.

Original Figures 4a and 4b are renumbered as Figure 3a and 3b, respectively; original Figure 5 is renumbered as Figure 4; and original Figure 6 is renumbered as Figure 5.

There is no statement in the amendment filed on 1/20/04 that Figures 4a, 4b, 5, and 6 were re-numbered and that Figure 3 was cancelled.

Applicants are required to submit corrected drawings.

Response to Arguments

Applicant's arguments, filed on 1/20/04, with respect to the claim objections have been fully considered and are persuasive. The objections of claims 1, 2, 8-13, 16, 17, and 24-28 has been withdrawn because of the amendment to claims 1, 2, and 3.

Conclusion

Claims 1-17 and 24-28 are in condition for allowance because the claims are free of the prior art of record.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Whiteman whose telephone number is (571) 272-0764.

Art Unit: 1635

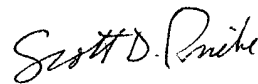
The examiner can normally be reached on Monday through Friday from 7:00 to 4:00 (Eastern Standard Time), with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader, SPE - Art Unit 1635, can be reached at (571) 272-0760.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Brian Whiteman
Patent Examiner, Group 1635


SCOTT D. PRIEBE, PH.D
PRIMARY EXAMINER